

ASSEMBLY BILL

No. 1695

Introduced by Assembly Member Beall

January 28, 2010

An act to amend Section 831.5 of the Penal Code, relating to custodial officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1695, as introduced, Beall. Santa Clara County Department of Corrections: custodial officers: duties.

Under existing law a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 425,000 or less, or by certain specified counties, including Santa Clara County, who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility. Under existing law, certain specified duties of custodial officers employed by the Santa Clara County Department of Corrections may be performed at the Santa Clara Valley Medical Center, as needed, in regard to in-custody inmates.

This bill would allow the duties of custodial officers employed by the Santa Clara County Department of Corrections to be performed at other health care facilities in Santa Clara County, in addition to duties performed at the Santa Clara Valley Medical Center.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Santa Clara.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, Kern County, Stanislaus County, Riverside County, Santa Clara County, or a county having a population of 425,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. Custodial officers of a county shall be employees of, and under the authority of, the sheriff, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of a custodial officer may include the serving of warrants, court orders, writs, and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer has no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Corrections Standards Authority pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not

1 yet completed the required training, shall not carry or possess
2 firearms in the performance of their prescribed duties, but may
3 perform the duties of a custodial officer only while under the direct
4 supervision of a peace officer, as described in Section 830.1, who
5 has completed the training prescribed by the Commission on Peace
6 Officer Standards and Training, or a custodial officer who has
7 completed the training required in this section.

8 (d) At any time 20 or more custodial officers are on duty, there
9 shall be at least one peace officer, as described in Section 830.1,
10 on duty at the same time to supervise the performance of the
11 custodial officers.

12 (e) This section shall not be construed to confer any authority
13 upon any custodial officer except while on duty.

14 (f) A custodial officer may use reasonable force in establishing
15 and maintaining custody of persons delivered to him or her by a
16 law enforcement officer; may make arrests for misdemeanors and
17 felonies within the local detention facility pursuant to a duly issued
18 warrant; may make warrantless arrests pursuant to Section 836.5
19 only during the duration of his or her job; may release without
20 further criminal process persons arrested for intoxication; and may
21 release misdemeanants on citation to appear in lieu of or after
22 booking.

23 (g) Custodial officers employed by the Santa Clara County
24 Department of Corrections are authorized to perform the following
25 additional duties in the facility:

26 (1) Arrest a person without a warrant whenever the custodial
27 officer has reasonable cause to believe that the person to be arrested
28 has committed a misdemeanor or felony in the presence of the
29 officer that is a violation of a statute or ordinance that the officer
30 has the duty to enforce.

31 (2) Search property, cells, prisoners or visitors.

32 (3) Conduct strip or body cavity searches of prisoners pursuant
33 to Section 4030.

34 (4) Conduct searches and seizures pursuant to a duly issued
35 warrant.

36 (5) Segregate prisoners.

37 (6) Classify prisoners for the purpose of housing or participation
38 in supervised activities.

39 These duties may be performed at the Santa Clara Valley Medical
40 Center, *or at other health care facilities in the County of Santa*

1 *Clara*, as needed and only as they directly relate to guarding
2 inpatient, in-custody inmates. This subdivision shall not be
3 construed to authorize the performance of any law enforcement
4 activity involving any person other than the inmate or his or her
5 visitors.

6 (h) Nothing in this section shall authorize a custodial officer to
7 carry or possess a firearm when the officer is not on duty.

8 (i) It is the intent of the Legislature that this section, as it relates
9 to Santa Clara County, enumerate specific duties of custodial
10 officers (known as “correctional officers” in Santa Clara County)
11 and to clarify the relationships of the correctional officers and
12 deputy sheriffs in Santa Clara County. These duties are the same
13 duties of the custodial officers prior to the date of enactment of
14 Chapter 635 of the Statutes of 1999 pursuant to local rules and
15 judicial decisions. It is further the intent of the Legislature that all
16 issues regarding compensation for custodial officers remain subject
17 to the collective bargaining process between the County of Santa
18 Clara and the authorized bargaining representative for the custodial
19 officers. However, nothing in this section shall be construed to
20 assert that the duties of custodial officers are equivalent to the
21 duties of deputy sheriffs nor to affect the ability of the county to
22 negotiate pay that reflects the different duties of custodial officers
23 and deputy sheriffs.

24 (j) This section shall become operative on January 1, 2003.

25 SEC. 2. The Legislature finds and declares that a special law
26 is necessary and that a general law cannot be made applicable
27 within the meaning of Section 16 of Article IV of the California
28 Constitution because of distinctions in existing law that apply only
29 to custodial officers employed by the Santa Clara County
30 Department of Corrections.